

REMARKS

Claim 32 is amended to reference a specific human chitinase amino acid sequence, SEQ ID NO: 2, encoded by the nucleotide sequence of SEQ ID NO: 1 originally recited in claim 32. Support for the recitation of immunogenic is found, e.g., at page 6, lines 3-4 and 23-25 of the specification. A marked up version of claim 32 is attached as **Exhibit A**.

The rejection under §112, first paragraph, for asserted lack of written description for the entire genus of nucleic acids encompassed by claim 32, may properly be withdrawn in view of the amendment of the claim to reference a specific amino acid sequence. The genus of amino acid sequences which encode immunogenic fragments of the human chitinase of SEQ ID NO: 2 is relatively limited and certainly supported by the specification's disclosure.

The rejection under §102(b) over Genbank entry T94579 may properly be withdrawn because that nucleotide sequence does not encode an immunogenic fragment of human chitinase as required by claim 32. The Genbank sequence is reversed (3' to 5') and moreover contains single nucleotide deletions throughout the sequence, e.g. close to the beginning, in the middle, and close to the end. These deletions cause frame shifts relative to SEQ ID NO: 1 that render proper translation difficult if not impossible. Moreover, the lack of any annotation of function in the Genbank entry means that one of ordinary skill in the art would not be motivated to undertake the work necessary to correct the sequence and/or obtain properly translated amino acid sequence.

Allowance of claim 32 and declaration of an interference with U.S. Patent No. 5,928,928 is respectfully requested in view of the above amendment and remarks.

Respectfully submitted,

MARSHALL, O'TOOLE, GERSTEIN,
MURRAY & BORUN

6300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606-6402
(312) 474-6300

By:



Li-Hsien Rin-Laures, M.D.
Reg. No.: 33,547

Chicago, Illinois
May 22, 2001

EXHIBIT A

MARKED UP VERSION OF AMENDED CLAIM

32. A purified, isolated polynucleotide encoding human chitinase of SEQ ID NO: 2 or an immunogenic fragment thereof, selected from the group consisting of:

(a) a double-stranded DNA comprising the protein coding portions of the sequence set out in SEQ ID NO: 1; and

(b) DNA which hybridizes under stringent conditions to a non-coding strand of the DNA of (a).